

Federal Communications Commission

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Industrial Tower and Wireless, LLC)	File No. EB-09-MA-0081
Licensee of Radio Station WQIV385)	
Miami, FL)	NOV No. V200932600001
)	
)	

NOTICE OF VIOLATION

Released: May 15, 2009

By the Resident Agent, Miami Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (“Notice”) issued pursuant to Section 1.89 of the Commission’s Rules¹ to Industrial Tower and Wireless, LLC (“Industrial”) licensee of radio station WQIV385, in Miami, FL.
2. On May 4, 2009, based on a Commission licensee’s complaint of radio interference, an agent of the Commission’s Miami Office monitored radio station WQIV385 located in Miami, FL, on frequency 463.6875 MHz, and observed the following violations:
 - a. 47 C.F.R. § 1.903(a): “Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part.” Furthermore, 47 C.F.R. § 1.903(b) states: “The holding of an authorization does not create any rights beyond the terms, conditions and period specified in the authorization.” Industrial is authorized under its license, WQIV385, to operate a five frequency pair “trunked radio system” as defined in § 90.7, with the emission designator “F3E.” According to § 90.207, the second symbol “3” indicates analog modulation and the third symbol “E” indicates voice. On May 4, 2009, an agent monitored station WQIV385 and observed digitally modulated transmissions only on single frequency, 463.6875 MHz. An Industrial employee stated that the station is operating as a standard UHF repeater system using only a single frequency pair, not as a trunked system, and that the transmissions are digitally modulated voice.

¹47 C.F.R. § 1.89.

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- b. 47 C.F.R. § 90.425(a): “Except as provided for in paragraphs (d) and (e) of this section, each station or system shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety Pool) during periods of continuous operation. The call sign shall be transmitted by voice in the English language or by International Morse Code in accordance with paragraph (b) of this section....” On May 4, 2009, between 1:30 p.m. and 3:15 p.m., an agent observed that Industrial did not transmit its call sign identification WQIV385 on the frequency 463.6875 MHz.
3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,² and Section 1.89 of the Commission's Rules, Industrial must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response must fully explain each violation, must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and should include a time line for completion of pending corrective action(s). The response must be complete in itself and signed by a principal or officer of Industrial. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Miami Office
PO Box 520617
Miami, FL 33152-0617

4. This Notice shall be sent to Industrial at its address of record.
5. The Privacy Act of 1974³ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁴

FEDERAL COMMUNICATIONS COMMISSION

Steven DeSena
Resident Agent
Miami Office
South Central Region
Enforcement Bureau

²47 U.S.C. § 308(b).

³P.L. 93-579, 5 U.S.C. § 552a(e)(3).

⁴18 U.S.C. § 1001 *et seq.*